



General Assembly

January Session, 2009

Raised Bill No. 1032

LCO No. 3861

03861_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING OFFERS OF COMPROMISE AND ACCESS TO
MEDICAL EVIDENCE IN PERSONAL INJURY ACTIONS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2009, and applicable to actions*
2 *filed on or after said date*) In any action to recover damages for personal
3 injuries, any party adverse to the plaintiff may request in writing that
4 the plaintiff provide such party with written authorizations that meet
5 the privacy provisions of the Health Insurance Portability and
6 Accountability Act of 1996 (P.L. 104-191) (HIPAA), as amended from
7 time to time, or regulations adopted thereunder, to permit such party
8 to inspect and make copies of all reports and records of each physician,
9 hospital or other health care provider relating to: (1) The treatment
10 allegedly received by the plaintiff as a result of the alleged injury; (2)
11 any treatment received by the plaintiff during the ten-year period prior
12 to the date of the alleged incident for any condition or injury that was
13 similar, or related, to the injury that the plaintiff claims to have
14 incurred as a result of the alleged incident; and (3) any treatment
15 received by the plaintiff for personal injuries sustained subsequent to
16 the date of the alleged injury or incident. Such authorizations, and

17 information obtained through the use of such authorizations, shall not
18 be used or disclosed by any person for any purpose other than a
19 purpose related to the action for which such information was
20 requested. The plaintiff shall comply with such request for
21 authorization not later than thirty days after receiving such request.

22 Sec. 2. (NEW) (*Effective October 1, 2009, and applicable to actions filed*
23 *on or after said date*) In any action to recover damages for personal
24 injuries, any party adverse to the plaintiff may request in writing that
25 the plaintiff provide such party with written authorizations to inspect
26 and make copies of the wage and employment records of all the
27 plaintiff's employers for the three-year period prior to the date of the
28 plaintiff's personal injuries and for all years subsequent to the date of
29 the plaintiff's personal injuries through the date of the request. If the
30 action includes a claim of impaired earnings capacity or lost wages, the
31 party may request written authorizations to obtain copies of any part
32 of income tax returns filed by the plaintiff relating to lost income for a
33 three-year period prior to the date of the plaintiff's personal injuries
34 and for all years subsequent to the date of the plaintiff's personal
35 injuries through the date of the request. The plaintiff shall comply with
36 such request for authorization not later than thirty days after receiving
37 such request.

38 Sec. 3. Section 52-178a of the general statutes is repealed and the
39 following is substituted in lieu thereof (*Effective October 1, 2009, and*
40 *applicable to actions filed on or after said date*):

41 In any action to recover damages for personal injuries, [the court or
42 judge may order the plaintiff to submit to a physical examination by
43 one or more physicians or surgeons. No party may be compelled to
44 undergo a physical examination by any physician to whom he objects
45 in writing submitted to the court or judge] any party adverse to the
46 plaintiff may request that the plaintiff submit to a physical or mental
47 examination by one or more health care providers by filing a request
48 with the court. The request shall specify the time, place, manner,

49 conditions and scope of the examination and the health care providers
50 who shall conduct the examination. The plaintiff shall comply with
51 such request not later than ten days after the date the request is filed
52 with the court unless the plaintiff files a written objection to the
53 examination with the court within such ten-day period. The written
54 objection shall specify the portions of the request that are the subject of
55 the objection and the reasons for the objection. The court shall order
56 the plaintiff to submit to such examination except upon the showing of
57 good cause by the plaintiff that such examination should not be
58 ordered.

59 Sec. 4. Subsection (b) of section 52-192a of the general statutes is
60 repealed and the following is substituted in lieu thereof (*Effective*
61 *October 1, 2009, and applicable to offers of compromise filed on or after said*
62 *date*):

63 (b) In the case of any action to recover damages resulting from
64 personal injury or wrongful death, whether in tort or in contract, [in
65 which it is alleged that such injury or death resulted from the
66 negligence of a health care provider,] an offer of compromise pursuant
67 to subsection (a) of this section shall state with specificity all damages
68 then known to the plaintiff or the plaintiff's attorney upon which the
69 action is based. At least sixty days prior to filing such an offer, the
70 plaintiff or the plaintiff's attorney shall provide the defendant or the
71 defendant's attorney with an authorization to disclose medical records
72 that meets the privacy provisions of the Health Insurance Portability
73 and Accountability Act of 1996 (P.L. 104-191) (HIPAA), as amended
74 from time to time, or regulations adopted thereunder, and disclose any
75 and all expert witnesses who will testify as to the prevailing
76 professional standard of care. The plaintiff shall file with the court a
77 certification that the plaintiff has provided each defendant or such
78 defendant's attorney with all documentation supporting such
79 damages.

80 Sec. 5. Section 52-194 of the general statutes is repealed and the

81 following is substituted in lieu thereof (*Effective October 1, 2009, and*
 82 *applicable to offers of compromise filed on or after said date*):

83 In any action, the plaintiff may, [within sixty] not later than ten days
 84 after being notified by the defendant of the filing of an offer of
 85 compromise, file with the clerk of the court a written acceptance of the
 86 offer signed by the plaintiff or the plaintiff's attorney agreeing to settle
 87 the underlying action for the sum certain specified in the defendant's
 88 offer of compromise. Upon the filing of the written acceptance and
 89 receipt by the plaintiff of such sum certain, the plaintiff shall file a
 90 withdrawal of the action with the clerk of the court and the clerk shall
 91 record the withdrawal of the action against the defendant accordingly.
 92 No trial may be postponed because the period within which the
 93 plaintiff may accept the offer has not expired, except at the discretion
 94 of the court.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009, and applicable to actions filed on or after said date</i>	New section
Sec. 2	<i>October 1, 2009, and applicable to actions filed on or after said date</i>	New section
Sec. 3	<i>October 1, 2009, and applicable to actions filed on or after said date</i>	52-178a
Sec. 4	<i>October 1, 2009, and applicable to offers of compromise filed on or after said date</i>	52-192a(b)
Sec. 5	<i>October 1, 2009, and applicable to offers of compromise filed on or after said date</i>	52-194

Statement of Purpose:

To amend provisions concerning: (1) Requests for plaintiff information in personal injury actions, and (2) offers of compromise to provide that: (A) Notice of damages and expert witnesses and authorization to disclose medical records be required in all actions to recover damages resulting from personal injury or wrongful death, rather than only actions alleging negligence of a health care provider as is currently provided, and (B) in any civil action, the plaintiff shall be required to file an acceptance of an offer of compromise not later than ten days after the offer is filed, rather than within sixty days after the offer is filed as is currently provided.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]